
Introduced by Senator Margett

February 18, 2005

An act to amend Section 311.11 of the Penal Code, relating to child pornography.

LEGISLATIVE COUNSEL'S DIGEST

SB 461, as introduced, Margett. Child pornography.

Under existing law, a person who knowingly possesses or controls any matter that depicts a minor engaging in or simulating sexual conduct, as defined, is guilty of a crime punishable by incarceration or a fine, or both.

This bill would make a technical, nonsubstantive change to that provision.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 311.11 of the Penal Code is amended to
2 read:
3 311.11. (a) Every person who knowingly possesses or
4 controls any matter, representation of information, data, or
5 image, including, but not limited to, any film, filmstrip,
6 photograph, negative, slide, photocopy, videotape, video laser
7 disc, computer hardware, computer software, computer floppy
8 disc, data storage media, CD-ROM, or computer-generated
9 equipment or any other computer-generated image that contains
10 or incorporates in any manner, any film or filmstrip, the
11 production of which involves the use of a person under the age of
12 18 years, knowing that the matter depicts a person under the age

1 of 18 years personally engaging in or simulating sexual conduct,
2 as defined in subdivision (d) of Section 311.4, is guilty of a
3 public offense ~~and~~. *A person found guilty of this section* shall be
4 punished by imprisonment in the county jail for up to one year,
5 or by a fine not exceeding two thousand five hundred dollars
6 (\$2,500), or by both the fine and imprisonment.

7 (b) If a person has been previously convicted of a violation of
8 this section, or of a violation of subdivision (b) of Section 311.2,
9 or subdivision (b) of Section 311.4, he or she is guilty of a felony
10 and shall be punished by imprisonment for two, four, or six
11 years.

12 (c) It is not necessary to prove that the matter is obscene in
13 order to establish a violation of this section.

14 (d) This section does not apply to drawings, figurines, statues,
15 or any film rated by the Motion Picture Association of America,
16 nor does it apply to live or recorded telephone messages when
17 transmitted, disseminated, or distributed as part of a commercial
18 transaction.